

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 641

Introduced by Schilz, 47.

Read first time January 21, 2009

Committee: Revenue

A BILL

- 1 FOR AN ACT relating to agriculture; to create a production
- 2 incentive for renewable diesel; and to create a fund.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds it to be in the public
2 interest to encourage research and demonstration, technology
3 transfer, and commercial utilization of innovative means of
4 renewable diesel production. It is the intent of the Legislature to
5 provide incentives to the renewable diesel industry that advance
6 this public interest, including encouragement of investigation of
7 promising production technologies and systems in the production
8 of renewable diesel and the utilization of feedstocks in the
9 production of renewable diesel that offer renewable energy
10 solutions for communities, the state, and the nation.

11 Sec. 2. For purposes of sections 1 to 4 of this act:

12 (1) Renewable diesel facility means a plant or facility
13 related to the processing, marketing, and distribution of renewable
14 diesel in Nebraska where all renewable diesel processing takes
15 place; and

16 (2) Renewable diesel means a renewable, combustible
17 liquid fuel that meets American Society for Testing and Materials
18 specification D6751-02 for biodiesel fuel (B100) or any other
19 recognized industry standard fuel specification for renewable
20 diesel derived from renewable, nonpetroleum sources if sold
21 commercially.

22 Sec. 3. (1) Subject to the limitations specified in
23 subsection (2) of this section and the requirements of subsection
24 (3) of this section and subject to the availability of funds in the
25 Advanced Renewable Diesel Technology Transfer and Commercialization

1 Incentive Fund, an advanced renewable diesel technology transfer
2 and commercialization incentive payment of thirty cents per gallon
3 shall be paid to a renewable diesel producer for:

4 (a) Renewable diesel produced utilizing innovative
5 technology and systems for the conversion of vegetable oils or
6 animal fats that increase feedstock conversion efficiency and net
7 energy balance beyond that achieved by conversion technologies and
8 systems utilized by existing commercial production facilities in
9 this state; or

10 (b) Renewable diesel produced utilizing technology
11 and systems enabling the conversion of biomass feedstocks not
12 convertible by technology and systems utilized by existing
13 commercial production facilities in this state, including:

14 (i) Renewable diesel converted from biomass from
15 environmentally available materials from land not converted for
16 crop production;

17 (ii) Renewable diesel converted from biomass derived from
18 crop residue;

19 (iii) Renewable diesel converted from biomass which may
20 be harvested from land of marginal production capacity or otherwise
21 retired or idled from food and feed production and managed for
22 provision of conservation or other environmental services if the
23 harvest of the biomass does not diminish or conflict with the
24 conservation or environmental services management objectives of the
25 land; and

1 (iv) Renewable diesel converted from any other feedstock
2 which utilization in renewable diesel production avoids or reduces
3 the necessity for conversion of agricultural land from food or feed
4 production or which utilization does not diminish availability of,
5 or compete with, the utilization of the feedstock as a food or feed
6 source.

7 (2) Advanced renewable diesel technology transfer and
8 commercialization incentive payments for no more than one million
9 gallons per calendar year and no more than two million gallons
10 cumulatively of qualified renewable diesel may be paid to a single
11 renewable diesel producer. The incentive shall be available to
12 a renewable diesel producer for production occurring over any
13 consecutive twenty-four-month period commencing with the first
14 month for which the renewable diesel producer claims the incentive.
15 The incentives may be paid on no more than two million gallons of
16 qualifying renewable diesel to renewable diesel producers claiming
17 incentives in any calendar year. If, during any month, the
18 Department of Agriculture determines that the amount of qualified
19 renewable diesel production for which incentives have been paid
20 during the calendar year to date added to incentives likely to be
21 claimed during the remainder of the calendar year will exceed two
22 million gallons, the department shall, beginning in such month and
23 each month thereafter:

24 (a) Calculate the average aggregate gallons of qualifying
25 renewable diesel production in each of the remaining months through

1 the remainder of the calendar year by subtracting from two million
2 gallons the amount of qualified renewable diesel production for
3 which incentives have been paid during the calendar year to date
4 and dividing the result by the number of months remaining in the
5 calendar year; and

6 (b) Prorate the number of gallons of qualifying renewable
7 diesel production claimed by each renewable diesel producer during
8 the month by a proportion equal to the average number of gallons
9 for which the incentive may be paid in the aggregate during the
10 month as calculated under subdivision (2) (a) of this section.

11 (3) (a) Claims for incentive payments shall be submitted
12 to the department on forms prescribed by the Director of
13 Agriculture. To be eligible to claim incentive payments, a
14 renewable diesel producer shall first provide to the director
15 such materials as the director deems sufficient to evaluate the
16 qualification of the renewable diesel production for the incentive
17 payment pursuant to this section. Such materials shall provide
18 a description of the renewable diesel facility at which the
19 production of renewable diesel for which the incentive payment to
20 be claimed will occur, a description of the feedstock, the source
21 of the feedstock, and the method of processing to be utilized. The
22 director shall submit such materials to the Industrial Agricultural
23 Products Center of the University of Nebraska-Lincoln for an
24 evaluation of the conformity of the proposed renewable diesel
25 production system and the feedstock to be utilized with the

1 purposes for which the incentive payment would be provided under
2 this section. To cover the costs of such evaluation, the Industrial
3 Agricultural Products Center may charge an evaluation fee, which
4 shall not exceed one thousand dollars. The director shall collect
5 the fee from the renewable diesel producer at the time the director
6 deems the materials submitted by the renewable diesel producer
7 sufficient for evaluation pursuant to this section.

8 (b) If the director determines that the renewable diesel
9 production will qualify for incentive payments provided under
10 this section, the director shall so notify the renewable diesel
11 producer. A renewable diesel producer shall begin to claim
12 incentive payments within one year after such notification unless
13 the director grants an extension. A renewable diesel producer shall
14 file for the incentive payment on a quarterly basis on a form
15 furnished by the director. The form shall require the renewable
16 diesel producer to file such information as the department may
17 prescribe, but shall include information relating to the original
18 production records and invoices issued at the time of delivery,
19 showing the total number of gallons of renewable diesel produced
20 for the previous three months.

21 (c) If the director determines that the renewable
22 diesel production does not qualify for incentive payments, the
23 renewable diesel producer may appeal the decision pursuant to the
24 Administrative Procedure Act.

25 (d) Trade secrets, academic and scientific research work,

1 and other proprietary or commercial information which may be
2 submitted to the director shall not be considered to be public
3 records as defined in section 84-712.01 if the release of such
4 trade secrets, work, or information would give advantage to
5 business competitors and serve no public purpose. Any person
6 seeking release of the trade secrets, work, or information as a
7 public record shall demonstrate that the release would not violate
8 this section.

9 Sec. 4. The Advanced Renewable Diesel Technology Transfer
10 and Commercialization Incentive Fund is created. The fund shall
11 consist of any money appropriated by the Legislature and any money
12 received as gifts, grants, bequests, or other contributions, public
13 or private, for purposes of sections 1 to 4 of this act and
14 any funds collected as an evaluation fee pursuant to section 3
15 of this act. The fund shall be expended only for the payment of
16 the incentive payments provided for in section 3 of this act and
17 the receipt and expenditure of the evaluation fee. Any money in
18 the fund available for investment shall be invested by the state
19 investment officer pursuant to the Nebraska Capital Expansion Act
20 and the Nebraska State Funds Investment Act.